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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1211th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-15967 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Germany (CERD/C/50/Misc.16, future CERD/C/304/Add.24, distributed at the meeting in English only)

Paragraphs 1-5

1. Paragraphs 1-5 of the draft concluding observations were adopted.

Paragraph 6

2. Mr. ABOUL-NASR said that once again it was essential to avoid singling out one group of genocide victims and to refer not only to the past but also to current events. The concluding observations must reflect the discussion which had taken place during the consideration of the State party's report. The Committee could express the hope that all past and present victims of racial discrimination would be treated equally by legislation.

3. Mr. CHIGOVERA (Country Rapporteur) said that, in preparing the draft concluding observations, he had endeavoured to take account of all the views expressed in the Committee. In those circumstances, he was prepared to add a sentence reflecting Mr. Aboul-Nasr's comment if the Committee agreed on its wording.

4. Mr. de GOUTTES said he appreciated Mr. Aboul-Nasr's point, but thought it should be expressed in a separate paragraph. In the specific case of Germany, the Committee should express particular concern at the resurgence of neo-Nazi phenomena.

5. Mr. VALENCIA RODRIGUEZ considered that the last sentence of the paragraph should be amended, as it gave the impression that Germany had complied with all the provisions of article 4, which was not quite the case.

6. Mr. GARVALOV noted that the same problem had arisen in the case of the United Kingdom. One could say that the State party had made progress in the implementation of the provisions of article 4.

7. Mr. CHIGOVERA (Country Rapporteur) observed that no one had criticized Germany during the debate for not having complied with the provisions of article 4.

8. Mr. ABOUL-NASR said that it was not a matter of levelling criticism, but giving the impression that there was room for improvement.

9. Mr. RECHETOV agreed that one could not say that all appropriate measures had been taken. He therefore proposed that "appropriate measures" should be replaced by "legislative measures".

10. Paragraph 6, as orally amended, was adopted.

Paragraph 7

11. The CHAIRMAN proposed that, in order to take account of the observation made earlier by Mr. Aboul-Nasr about the victims of genocide and a comment by Mr. Rechetov, who considered it necessary to introduce an element of condemnation of genocide, the following new sentence should be added in paragraph 7: "The Committee trusts that all genocidal acts will be condemned without any distinction; it further hopes that schemes for compensating the victims of genocide and for preventing any future discrimination will cover all groups that have been or might become victims".

12. Mr. GARVALOV considered that it would be desirable to recall that the international community had condemned genocide as a crime against humanity.

13. The CHAIRMAN proposed, in the light of that observation and drafting suggestions by Mr. Aboul-Nasr and Mr. Rechetov, that the beginning of the sentence should read: "The Committee reiterates that genocide has rightly been condemned as a crime against humanity, and trusts that all genocidal acts will be condemned without any distinction as to time, place or group of victims; it further hopes ...". That sentence would constitute the first part of paragraph 7.

14. It was so decided.

15. Mr. VALENCIA RODRIGUEZ suggested that, later in the paragraph, the words "The Committee is persuaded that" should be replaced by "The Committee takes note that".

16. Mr. YUTZIS considered it preferable to say that the Committee "understood" that there was a clear rejection of attitudes of racial discrimination and xenophobia among a considerable proportion of society. It was in fact difficult to draw such a categorical sociological conclusion and to demonstrate that the great majority of society rejected such attitudes.

17. Mr. RECHETOV said that similarly, later in the paragraph it would be preferable to speak of "frequent" and not "general" condemnation.

18. Mr. CHIGOVERA (Country Rapporteur) said that, unless the Committee challenged the German delegation's statement, as confirmed by numerous reports, that the great majority of the population rejected attitudes of racial discrimination, there was no reason to amend the text.

19. The CHAIRMAN said that the problem was that it was impossible to know for certain whether society's attitudes of rejection were permanent in character or whether they constituted a reaction to particular incidents.

20. Mr. GARVALOV pointed out that huge public demonstrations had taken place in Germany recently. The facts must therefore be acknowledged. He suggested that the text should read: "The Committee is aware that". He also proposed that "the great majority" should be replaced by "broad sections".

21. The CHAIRMAN read out the text of the second part of paragraph 7, as amended in the light of the various suggestions made by members: "The

Committee is aware that many spontaneous anti-discrimination demonstrations in German cities, expressions of compassion for the victims of violence and frequent condemnation of xenophobia and racial discrimination in the daily press and other media demonstrate that broad sections of the German public reject xenophobia and racial discrimination".

22. Paragraph 7, as orally amended, was adopted.

Paragraphs 8 and 9

23. Paragraphs 8 and 9 were adopted.

Paragraph 10

24. Mr. GARVALOV considered that that point could also be made in the concluding observations concerning other States parties.

25. Paragraph 10 was adopted.

Paragraph 11

26. Paragraph 11 was adopted.

Paragraph 12

27. Mr. ABOUL-NASR considered that no reference could be made to anti-Semitism without also mentioning all other forms of racism. At present, anti-Semitism in Germany was less serious than animosity towards the Turks. Recently, a number of Turks had been killed by police officers. Persons originating from southern Europe and north Africa were also subjected to racial attacks. He therefore suggested that the words "towards other groups" should be inserted after the words "racial discrimination".

28. Mr. YUTZIS supported Mr. Aboul-Nasr's observations. Anti-Semitism was just one of the many forms of racism and, at present in Germany, it was the Turks who were the main targets of racial hatred. He suggested that emphasis should be placed on the fact that manifestations and acts of violence characterized by xenophobia, anti-Semitism and racial discrimination against other groups occurred in Germany and that they clearly reflected deep-seated prejudices. To that end, he proposed that the word "may" should be deleted from the clause "such manifestations may reflect deep-seated prejudices".

29. Mr. RECHETOV considered that the reference to anti-Semitism should be retained and that the paragraph should be worded in such a way as to refer to other forms of racial discrimination, for example against Turks or Arabs.

30. Mr. GARVALOV stressed that the latest report of Germany related to a recent period during which the Turks in particular had been subjected to racist attacks and some of them had even been killed when their homes had been set on fire. He therefore considered that it should be specified that the xenophobia in question principally concerned Turks. In addition, he suggested, like Mr. Yutzis, that the word "may" should be deleted as it diluted the text.

31. Mr. YUTZIS noted that the Committee was sometimes harsh, not to say unjust, towards small countries; Guatemala was a case in point. In his opinion, members should endeavour to give fuller consideration to certain social situations which occurred in certain States parties, powerful though they might be, especially since there was a danger that those situations might recur in those States.

32. Mr. LECHUGA HEVIA considered that the reference to anti-Semitism should be retained, in view of the rise of neo-Nazi movements in Europe and the United States. However, it should not be forgotten that Slavs and Spaniards had also fallen victim to the Holocaust. He therefore proposed that, after the reference to anti-Semitism, the words "manifestations against other ethnic groups" should be added, since that reflected the current situation.

33. Mr. ABOUL-NASR was of the view that in the concluding observations the Committee should deal with current problems or problems which might arise in the near future, but without forgetting the past. He had no objection to a reference to anti-Semitism, but in that case mention should also be made of the Turks and gypsies. The latter were being subjected to ill-treatment and being deported to Romania with the agreement of the Government of that country, which had received financial compensation in exchange.

34. Reference should therefore also be made to discrimination against the above-mentioned groups, or else the first sentence of the paragraph should be reworded in order to give it a general tone, by deleting the word "anti-Semitism", in which case the concept of racial discrimination would apply to all the targeted groups.

35. He had misgivings about the expression "deep-seated prejudices" which, in a way, levelled charges against a whole people. It seemed to fall into the same category as the statements by the Nazis about the Jews or the gypsies. In a spirit of compromise he would not object to those words, but he expressed a formal reservation about them.

36. The CHAIRMAN observed that the term "manifestation" implied that deep-seated prejudices against certain groups existed.

37. Mr. de GOUTTES considered that the neo-Nazi phenomena which existed in Germany could not be ignored. However, it should be indicated that the manifestations referred to concerned groups other than Semites. He therefore proposed the following wording instead of "Concern is expressed over manifestations of xenophobia, anti-Semitism, racial discrimination": "Concern is expressed over manifestations of xenophobia and racial discrimination, including acts of anti-Semitism and hostility towards certain ethnic groups".

38. Mr. YUTZIS stressed that the word "may" should be deleted. The manifestations in question clearly reflected deep-seated prejudices. They were symptomatic. To say that those manifestations "may" reflect deep-seated prejudices simply seemed to be letting the State party off lightly.

39. Ms. ZOU Deci and Mr. RECHETOV also suggested that the word "may" should be deleted.

40. The CHAIRMAN proposed that the amended first part of the first sentence suggested by Mr. de Gouttes should be approved and that the word "may" later in the paragraph should be deleted.

41. It was so decided.

Paragraph 13

42. Paragraph 13 was adopted.

Paragraph 14

43. Mr. YUTZIS, observing that many Turks had also been subjected to police brutality, wondered whether other groups or nationality should not be mentioned together with Africans.

44. Mr. ABOUL-NASR considered that more Turks were subjected to police brutality than Africans.

45. Mr. de GOUTTES proposed that the words "particularly Africans and Turks" should be included, since according to press reports, those were the two categories that were the most frequent victims of police brutality.

46. Paragraph 14, as orally amended, was adopted.

Paragraphs 15-18

47. Paragraphs 15-18 were adopted.

Paragraph 19

48. Mr. ABOUL-NASR said he did not favour recommending the establishment of "a national institution to facilitate the implementation of the Convention", even if such action was based on a general recommendation of the Committee. In his view, it was preferable to take account of the particular situation of each country and thereby avoid imposing the same model on all States parties.

49. Mr. GARVALOV acknowledged that the Committee should perhaps adapt its suggestions to each country, but emphasized that it must also be consistent and ask the same things of all States parties.

50. Mr. RECHETOV agreed with Mr. Aboul-Nasr. Since paragraph 19 was, in his view, less important than paragraphs 20 and 21, he proposed that it should be placed after the latter paragraphs.

51. In response to Mr. Aboul-Nasr, Mr. CHIGOVERA (Country Rapporteur), supported by Mr. de GOUTTES, proposed that the second part of the sentence should be amended to read: "and suggests that consideration also be given to the establishment of a national institution". In his view, that would facilitate implementation of the Convention.

52. Paragraph 19, as orally amended, was adopted.

Paragraph 20

53. The CHAIRMAN observed that the German State recognized as minorities only national minorities, which were communities established in specific areas, and was not willing to grant the other minorities, namely the ethnic groups scattered throughout the country, the privileges enjoyed by the former.

54. Mr. SHAHI considered that the Committee was entitled to suggest that Germany should grant the same rights to all minorities since the representative of that country had stated that there was no difference between the national minorities and the other minorities with regard to the enjoyment of civil or other rights. However, the Committee must also take account of the difficulties which the German State might encounter in implementing such a recommendation. For that reason he questioned the advisability of that recommendation, especially since it did not say how the State party could overcome those difficulties.

55. The CHAIRMAN pointed out that the German delegation considered the Turks as foreigners and not as a minority, unlike people belonging to the national minorities who had German citizenship.

56. Mr. RECHETOV considered that it would be best to delete paragraph 20, since the matter was too complex. The Danes, for example, did not simply enjoy autonomy; they had their own State. History could not be ignored and a State could not be recommended to do the impossible. Even if paragraph 20 was retained, the situation of the Turkish minority or other minorities could not be improved.

57. Mr. CHIGOVERA (Country Rapporteur) observed that paragraph 20 stemmed from paragraph 13, which had been adopted. He had not been satisfied with the reply which the German delegation had given when he had asked it why former Turkish nationals who had become German citizens had not enjoyed the same protection as persons belonging to the national minorities.

58. The CHAIRMAN said he understood that very few second-generation Turks had acquired German nationality and that most of them were still foreigners.

59. Mr. SHAHI said that, as far as he remembered, the German delegation had stated that 90,000 Turkish immigrants had acquired German citizenship. He supported Mr. Chigovera's proposal.

60. Mr. CHIGOVERA (Country Rapporteur) proposed, with the Chairman's support, that paragraph 20 should read: "The Committee encourages the State party to explore ways of providing specific protection to all ethnic groups living in Germany."

61. Paragraph 20, as orally amended, was adopted.

Paragraph 21

62. Mr. de GOUTTES proposed that reference should be made to xenophobic offences, in particular those committed by members of the police forces.

63. Paragraph 21, as orally amended, was adopted.

Paragraphs 22 and 23

64. Paragraphs 22 and 23 were adopted.

65. The draft concluding observations of the Committee concerning the thirteenth and fourteenth periodic reports of Germany as a whole were adopted.

66. Mr. GARVALOV observed that it would be preferable, in accordance with the rules in force, that the official name of Germany should be reproduced in full, at least in the title of the Committee's concluding observations.

67. The CHAIRMAN said he would ensure that the necessary action was taken.

The meeting was suspended at 12.10 p.m. and resumed at 12.20 p.m.

Draft concluding observations concerning the ninth and tenth periodic reports of Belgium (CERD/C/50/Misc.19, future CERD/C/304/Add.26, distributed at the meeting in French only)

Paragraph 1

68. Paragraph 1 was adopted, on the understanding that the appropriate insertions would be made.

Paragraph 2

69. Mr. VALENCIA RODRIGUEZ proposed that in the fourth sentence the adjective "pluraliste" relating to the Belgian delegation should be deleted.

70. Paragraph 2, as orally amended, was adopted.

Paragraphs 3-7

71. Paragraphs 3-7 were adopted.

Paragraph 8

72. Mr. CHIGOVERA asked what was the purpose of that paragraph. The words "the Committee noted with concern that the status of the Convention was not sufficiently clear in the Belgian legal system" seemed to him to be particularly vague.

73. Mr. de GOUTTES pointed out that it had been stated more explicitly in the original text that the Committee had noted with concern that the status of the Convention was not sufficiently clear because most of its provisions were not of a self-enforceable nature and could not be invoked in the courts.

However, several members of the Committee had proposed the use of vaguer wording, because of insufficient knowledge of the functioning of the Belgian legal system. He therefore proposed the following wording: "the Committee was concerned to learn whether the provisions of the Convention could be invoked in the Belgian courts".

74. Mr. ABOUL-NASR considered that it was not necessary to express a concern but simply to request the Belgian Government to provide the Committee with the information it needed. If the information requested was not provided, the Committee could then express its concern.

75. Mr. de GOUTTES, supported by Mr. CHIGOVERA and in the light of Mr. Aboul-Nasr's comments, suggested that paragraph 8 should be deleted.

76. Paragraph 8 was deleted.

Paragraph 9

77. Mr. ABOUL-NASR considered that it would be advisable to delete the words "covered by the 1948 Convention" following "the various types of genocide".

78. Paragraph 9, as orally amended, was adopted.

Paragraph 10

79. Mr. de GOUTTES proposed that in the first line the word "consistent" describing Belgian case law should be deleted.

80. Paragraph 10, as orally amended, was adopted.

Paragraph 11

81. Mr. de GOUTTES proposed that, in order to avoid repetition, the words "about the provisions" should be replaced by "on the provisions".

82. Paragraph 11, as orally amended, was adopted.

Paragraphs 12-16

83. Paragraphs 12-16 were adopted.

Paragraph 17

84. Mr. de GOUTTES proposed that the words "and the Convention to be directly invoked before the courts" should be added at the end of the paragraph.

85. Mr. ABOUL-NASR observed that if that recommendation was acted on, it would cause Belgium to incorporate in its domestic legislation all the provisions of the Convention, including some which were not of a legal nature.

86. Mr. de GOUTTES said that the recommendation concerned the incorporation of articles 4-7, and in particular article 6, in Belgian legislation. He proposed that the word "all" should be deleted.

87. Mr. ABOUL-NASR said that if the Committee made that recommendation with respect to Belgium, it must do so with respect to all other States parties.

88. Mr. CHIGOVERA said he saw no links between paragraph 17 and the other paragraphs of the draft concluding observations. The fact that the provisions of the Convention could be directly invoked was not in question in Belgium.

89. Mr. de GOUTTES proposed that the word "directly" should be deleted.

90. Paragraph 17, as orally amended, was adopted.

Paragraph 18

91. Mr. de GOUTTES pointed out that paragraph 18 should be read in conjunction with paragraph 9.

92. Mr. VALENCIA RODRIGUEZ said he had difficulty in understanding the relationship between the Convention and that paragraph, which might give the impression that acts related to genocide occurred in Belgium.

93. Mr. YUTZIS said he also had doubts about the purpose of that paragraph.

94. Mr. de GOUTTES, taking into account the observation by Mr. Valencia Rodriguez, proposed that in that paragraph the Committee should suggest to the State party that its Act of 23 March 1995 concerning the denial or approval of genocide should be expanded to cover the various types of genocide, as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

95. Mr. SHERIFIS considered that it would be preferable to refer to the International Convention on the Elimination of All Forms of Racial Discrimination rather than another convention.

96. Mr. VALENCIA RODRIGUEZ said he was prepared to endorse Mr. de Gouttes' proposal but nevertheless considered that the reference to genocide was unrelated to the implementation of the Convention.

97. Mr. de GOUTTES observed that paragraph 18 stemmed directly from paragraph 9, which had been adopted in the section concerning principal subjects of concern, and recalled that the crimes of the Nazis had been mentioned by the Committee on several occasions. He proposed that the paragraph should read: "The Committee suggests to the State party that the Act of 23 March 1995 punishing the denial, minimization, justification or approval of the genocide committed by the German National Socialist regime during the Second World War should be expanded to cover the various types of genocide".

98. Mr. YUTZIS proposed that paragraphs 18 and 19 should be merged in a single paragraph reading: "The Committee recommends to the State party that it should ensure a greater degree of equity in the definition of the various types of genocide with the aim of more effective criminal prosecution of racist, negationist and discriminatory texts as such".

99. The CHAIRMAN proposed that the consideration of paragraph 18 should be suspended.

100. It was so decided.

The meeting rose at 1.05 p.m.

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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1212th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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COLLECTION

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CONTENTS (continued)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the ninth and tenth periodic reports of Belgium

Draft concluding observations concerning the fourteenth periodic report of Iceland

Draft concluding observations concerning the eleventh periodic report of Mexico

The meeting was called to order at 3.05 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY-WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Situation in Rwanda

1. At the invitation of the Chairman, Mr. Ntashamaje and Mr. Gasana (Rwanda) took seats at the Committee table.

2. Mrs. SADIQ ALI (Country Rapporteur) welcomed the Rwandan delegation and said that events in that country had developed swiftly since the submission of the previous report in 1989. She requested the delegation to provide information on the status of returnees, refugees and displaced persons, the effects of the national reconciliation policy, the reconstruction of the State, trials of persons suspected of committing serious crimes and genocide, and the capacity of the Government and judiciary to bring the guilty to justice. She asked the delegation how the Committee could help Rwanda, when the Government expected to submit its next report, and whether it would require assistance from the Centre for Human Rights in drafting that report.

3. Mr. NTASHAMAJE (Rwanda) explained that since gaining independence in 1962, Rwanda had endured more than 30 years of "ethnic" discrimination. The distinctions made along "ethnic" lines by Belgian colonizers had created an artificial situation since the peoples of Rwanda shared a common language and culture. When the Government of National Unity had come to power in 1994, all forms of discrimination had been abolished. The Protocol of Agreement on the Rule of Law, which formed an integral part of Rwandan fundamental law, had removed any reference to ethnic origin from official documents, thereby allowing all persons access to schools, jobs and other sectors of national life solely on the basis of merit.

4. Referring to the specific questions asked by Mrs. Sadiq Ali, he said there were no longer displaced persons in Rwanda, following the dismantling of the Kibeho camp in April 1995. Former refugees had been received in transit centres and, after being given essential clothing, food and medicines, had returned to their regions of origin.

5. A number of measures had been taken by the local authorities to facilitate the recovery of property. Rwanda had a very severe housing shortage because many homes had been destroyed during the massacres of 1994. Most property belonging to the exiles from that period had been occupied by homeless survivors of the massacres and by impoverished refugees from other conflicts who had returned to Rwanda. Rules on the restitution of property, housing loans and assistance to the poverty-stricken had been instituted to alleviate the problem.

6. Turning to the powers of the Government and judiciary, he said that thanks to the assistance of the international community, the Rwandan courts had been able to begin trials of persons suspected of the crime of genocide or crimes against humanity committed in Rwanda between October 1990 and December 1994. The preparatory phase of assistance had consisted of the construction and repair of buildings, including courts and detention centres,

the training of judges and other personnel, the establishment of the Supreme Court and Supreme Council of Magistrates, and the adoption of new legislation for the prosecution of suspected perpetrators of genocide and crimes against humanity. Further help from the international community was nevertheless required in order to continue to deal with some 80,000 files on suspects, and strengthen prosecutors' offices in the areas of staffing, logistic support and equipment. There was also an urgent need for financial assistance to upgrade conditions in prisons, which were very overcrowded.

7. Two important measures had been adopted within the context of the programme of social reconstruction. Firstly, a national fund had been established for the award of grants as compensation and assistance to the survivors of the atrocities committed in 1994. Secondly, article 24 of the Protocol of Agreement on Power-Sharing, signed at Arusha in 1993, had provided for the establishment of a Commission for National Unity and National Reconciliation to prepare and coordinate all activities aimed at promoting unity and reconciliation among the Rwandan people. The bill for the establishment of that Commission had been submitted to the Transitional National Assembly one month earlier.

8. Mr. CHIGOVERA thanked the representative of Rwanda for his presentation and said that the information given would help the Committee to obtain an accurate idea of the situation in that country and to make appropriate suggestions to the Rwandan Government. He commended the efforts made by the Government in settling long-standing conflicts and appealed to the Government to continue its attempts to achieve reconciliation.

9. He asked the delegation to comment on coordination between the Rwandan judiciary and the international tribunal based in Arusha in bringing suspected perpetrators of genocide to trial. While acknowledging the serious handicap faced by the Rwandan judiciary in establishing a system to handle the large numbers of outstanding cases, he expressed concern at the conditions in which detainees were kept, and specifically at the prison overcrowding and prolonged periods of detention. He wondered whether alternative arrangements could be made to ease the plight of the more than 80,000 suspects, some of whom might eventually be freed and would subsequently feel that they had been subjected to great injustice.

10. Mr. de GOUTTES said that the Committee had been closely following the situation in Rwanda for several years and on previous occasions had adopted concluding observations, a declaration and a decision. The Committee had expressed a number of concerns relating to cooperation between the Rwandan Government and the international criminal tribunal, the role of the media, the importance of training law enforcement officers in human rights issues, the need for the restoration of the judicial system and the plight of detainees.

11. He referred to the establishment of a commission to screen cases and study the files on detainees. Information emanating from international organizations had indicated that the commission did not afford sufficient guarantees and could not replace competent judicial authorities. It was important to bear in mind that genuine jurisdiction required the provision of customary guarantees, under the instruction of qualified judges. He acknowledged that the reconstitution and reform of the Rawandan judicial

system were matters of priority, and reminded the delegation that the Committee could offer expertise in training and legislative reform.

12. Mr. ABOUL-NASR expressed appreciation for the opportunity to hear a first-hand account of the situation in Rwanda. He asked what kind of international assistance had been provided and whether such assistance had been sufficient. He also wondered whether the Government of Rwanda believed it had been fairly treated by the Security Council, and was curious to know the Government's expectations of the international tribunal.

13. Mr. SHAHI said the Committee was appalled by the scale of the massacres committed in Rwanda. It remained a matter of concern that large numbers of suspects would be detained for a protracted period. He considered it of paramount importance to reinforce the Rwandan judicial system in order to deal expeditiously with the cases before it. In that context, he endorsed the observations made by Mr. de Gouttes and Mr. Aboul-Nasr, and hoped that they would receive the attention of the Rwandan Government.

14. Mr. SHERIFIS said that the entire international community had been moved by the events which had led to the massive flows of refugees and displaced persons. He expressed the hope that the tragedy and agony suffered by the Rwandan people would inspire all concerned to endeavour to remedy the situation. Only six to eight months earlier, the Committee had adopted a recommendation on the plight of refugees and displaced persons; he urged the Rwandan Government to give serious attention to that recommendation. He wondered how the Governemnt assessed its ability to implement the recommendation, particularly with regard to the restitution of property. In closing, he wished Rwanda peace, security and harmony in the future.

15. The CHAIRMAN, noting that the situation in Rwanda was also being considered within the context of agenda item 5, said he wished to stress the many advantages, both to the State and to the Committee, of conducting a dialogue on the basis of a report. Unfortunately, no periodic report had been submitted. He accordingly suggested that the delegation should contact the Centre for Human Rights to discuss assistance in preparing its next report.

16. Mr. NTASHAMAJE (Rwanda) thanked the speakers for their comments and apologized for the delay in submitting the periodic report. He assured the Committee that the matter would be pursued as a matter of priority.

17. He wished to make a clarification: there had not been ethnic conflicts in Rwanda, but rather, ethnic discrimination.

18. Turning to the question of coordination between the Rwandan judicial system and the international judicial system, he said the two jurisdictions had competing fields of competence, with primacy given to the international tribunal. The two systems did not operate in parallel. The international tribunal was expected to try the masterminds behind the acts of genocide who had taken refuge outside the country, whereas the national judicial system had jurisdiction over those persons who were currently in the country or who would eventually be extradited.

19. While he appreciated the reasons why the international tribunal could not apply the death sentence, it must be understood that after the atrocities that had been committed in Rwanda, neither the Government nor public opinion in Rwanda was ready for abolition of the death penalty. Cooperation with the international tribunal was proceeding fairly satisfactorily on the whole, with exchanges of records and information, although the Government was critical of some aspects of the tribunal's work. For example, it deplored the fact that a number of persons now being prosecuted by the tribunal were not the principal offenders. Another criticism was that the person specially designated by the tribunal to conduct investigations and coordinate prosecutions should be a prosecutor, based in Kigali, and not a deputy prosecutor as was now the case. It also deplored the constant postponement of proceedings, with tribunal judges deferring to dilatory arguments by defence lawyers.

20. The Government was fully aware of the plight of detainees, but it was necessary to ensure that there could be no impunity for those who had committed the crimes. So massive had been the scale of the genocide that it was not surprising that there should be 80,000 persons in prison. Constant appeals had been made to the international community to assist in improving the conditions of detention, which could be done by expanding the capacity of existing prisons and building new ones. After the massive return of refugees, there had naturally been an increase in the number of arrests, since they included many people who had been involved in the massacres. The Government had had to take steps to reduce the prison population, for example by releasing those who had committed offences against property or minor ordinary offences. Regarding the screening or sorting commissions, which had come under some criticism, it must be borne in mind that in 1995, when they had been set up, the Public Prosecutor's Office, which had been and still was grossly understaffed, had simply been unable to cope with the situation. The commissions, which had been composed of local administrative, military and other personnel, had not proved very effective, largely because of acute logistical difficulties - lack of vehicles, petrol, office supplies, etc. - and time constraints, since most of their members held other posts as well. They had done what they could, but the Ministry of Justice shared the view that their work should be taken over by prosecutors' offices.

21. On the subject of the role of the media, the Government was working on a press bill which would allow for freedom of expression but also take account of the need to avoid the errors of the past, such as the use of the media to stir up hatred. With regard to human rights education, awareness seminars had been and were continuing to be organized, with the assistance of UNHCR and the Office of the High Commissioner for Human Rights, for the training of members of the judiciary in particular. He was grateful to the Committee for its offer of assistance and hoped that a meeting could be arranged with the Committee in due course to determine the kind of support needed.

22. Addressing the question of international assistance to the judiciary, he said that there were now foreign legal advisers working with the prosecutors' offices and criminal investigation service. There was, however, an acute shortage of defence lawyers. There was as yet no bar association in Rwanda, although a bill was under preparation for that purpose. In the circumstances, it was extremely difficult to ensure that each and every one of the 80,000 detainees could exercise his legal right to be assigned a defence

counsel, and there had been cases of persons brought to trial without counsel. The Government had appealed to the international community for assistance in that regard, in addition to the valuable assistance being provided by the NGO "Avocats sans frontières". A suggestion that foreign judges should be authorized to assist Rwandan judges in court proceedings had been refused by the Government, principally on account of the language problem, but it had accepted the services of foreign jurists as legal advisers.

23. Regarding the property of returnees, the Government had reaffirmed the inalienable right to property. When the rightful owner returned home, any illegal occupant was given, in principle, 15 days to vacate the premises. In practice, however, mainly because of the difficulty in finding alternative lodgings, the rule was applied flexibly and a compromise was usually reached. Most returnees had recovered their property, and the Government was determined to settle the problem satisfactorily.

24. Mr. GASANA (Rwanda), addressing the questions asked by Mr. Aboul-Nasr, said that over 50 years previously the United Nations had pledged that there would be no more genocide or crimes against humanity, and yet genocide had occurred in full view of everyone. That was why the Government of Rwanda considered it legitimate that the international community should come to its assistance, especially as there had been United Nations forces in the country at the time. But those forces had been scaled down and then withdrawn. Elsewhere, at another time, the whole international community had been mobilized and the Marshall Plan had been introduced. Although some humanitarian, educational and other assistance had been provided, for which Rwanda was grateful, a greater sense of responsibility was needed towards a people who had suffered so much. Naturally Rwanda was not satisfied with the assistance given, and would not be as long as the international community failed to understand that Rwanda, too, was a member of the United Nations family. Reconciliation was only possible if the international community's approach to the Rwandan question was "de-ethnicized"; its assistance could only be of use if the people of Rwanda were seen first and foremost as Rwandans and not just as Hutus and Tutsis. The ideology of ethnic difference must cease; it was a virus against which a vaccination must be found.

25. His Government was not against constructive criticism or intervention that could help it to rebuild the country; what it refused to accept was dictatorial interference and attempts to impose solutions that failed to take account of the reality on the ground. It must be understood that it was for the Rwandan people and Government to determine their own priorities. His presence before the Committee testified to the Government's openness to dialogue. But dialogue presupposed familiarity with the real problems, which could only be gained by visiting the country and speaking to the Rwandan people. Without first-hand experience, an outsider - and the media - could not appreciate the full horror of what had happened and the ruined lives of those who had survived. Detainees were not the only problem. The restitution of property, too, was a highly complex matter, as evidenced by the fact that some former owners had been involved in the massacres.

26. The CHAIRMAN assured the representative that his remarks spoke to the Committee's sentiments of solidarity.

27. Mrs. SADIQ ALI (Country Rapporteur) said that the major problems appeared to be the judiciary and the need for international support. While

the Committee would perhaps not be in a position to go to Rwanda, it felt a sense of solidarity towards Rwanda and would do everything in its power to encourage the international community to provide assistance. She asked what steps had been taken to achieve national reconciliation.

28. Mr. GASANA (Rwanda) said that, while justice was one of the major factors in reconciliation, the main problem was not the judicial system; it was a socio-economic problem of great complexity. The Rwandan people and Government were more concerned than any foreigner about national reconciliation, which could only come about if the country had the means to rebuild the social and economic foundations of society. In the two or three years since the forming of a Government of national unity, the international community had provided only minimal resources to enable it to translate its vision for a new Rwanda into reality. Hundreds of thousands of Rwandans had only just returned, and reconciliation was a slow process, and yet the international community was impatient and pointed an accusing finger at the Government for what it had allegedly failed to do. It was responsible for determining its own policies and, given the necessary means, would be able to achieve its ends.

29. The CHAIRMAN observed that the Committee had been the first body within the United Nations system to have drawn attention to the impending dangers in Rwanda and Burundi, many years previously. Over the years, it had gained a profound understanding of many features of the situation in the region and had heard explanations from the Governments of both countries to the effect that relations between Hutus and Tutsis were not ethnic relations in the way that might be understood in other parts of the world. The Committee understood the scale and complexity of the problems and was aware that they could not be solved rapidly. That did not detract from its hope that it could play a constructive role in inducing others to take the necessary action. He looked forward to a further meeting with the representatives of Rwanda in the near future, at which time he hoped that the prospects for the country would be more promising.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the ninth and tenth periodic reports of Belgium (CERD/C/50/Misc.19) (continued)

Paragraph 18

30. Mr. de GOUTTES proposed that paragraph 18 should be deleted.

Paragraph 19

31. Mr. de GOUTTES suggested that a new sentence should be inserted before "The Committee recommends" which would read: "The Committee suggests that the Act of 23 March 1995 which prohibits the denial, minimization, justification or approval of the genocide committed by the German National Socialist regime during the Second World War be broadened to cover the different types of genocide."

Paragraph 24

32. After a brief discussion in which Mr. YUTZIS, Mr. RECHETOV, Mr. SHERIFIS, Mr. VALENCIA RODRIGUEZ and Mr. de GOUTTES took part, the CHAIRMAN said that the final two sentences would be deleted.

33. The draft concluding observations concerning the ninth and tenth periodic reports of Belgium as a whole, as amended, were adopted subject to minor drafting changes.

Draft concluding observations concerning the fourteenth periodic report of Iceland (CERD/C/50/Misc.20)

Paragraph 11

34. Mr. ABOUL-NASR considered that paragraph 11 was redundant and should be deleted. The Committee should not single out any individual State party with regard to the incorporation of the Convention into national law.

35. Mr. RECHETOV said that Iceland's legal system clearly provided for the incorporation of international instruments into national law, as could be seen from paragraph 8 of the report (CERD/C/299/Add.4), although the process was lengthy. The paragraph merely aimed to remind the authorities that the Convention was among the international instruments to which Iceland was a party that was still not part of its national law.

36. Mr. CHIGOVERA said that he had serious reservations as to what exactly "incorporate the provisions" meant. For the Committee, the question was not just one of incorporation but the effective implementation of the Convention.

37. The CHAIRMAN suggested that "consider giving effect to" should replace "incorporate".

38. Mr. RECHETOV said that he could not support that proposal as the periodic report explicitly stated that Icelandic law provided for the incorporation of international human rights instruments.

39. The CHAIRMAN said that, as he understood it, if the Committee diluted paragraph 11, it would be worse than useless; consequently, he proposed deleting the entire paragraph.

40. The draft concluding observations concerning the fourteenth periodic report of Iceland as a whole, as amended, were adopted subject to minor drafting changes.

Draft concluding observations concerning the eleventh periodic report of Mexico (CERD/C/50/Misc.24)

Paragraph 11

41. Mr. YUTZIS suggested making it clear, at the end of the paragraph, that the concerns expressed related in particular to indigenous groups.

42. Mr. de GOUTTES (Country Rapporteur) said that that was already implicit in the paragraph's first sentence. For his part, he proposed inserting, at the end of the first sentence, following the words "persons active in promoting and defending human rights", the following phrase: "who are victims of various violations of human rights". The second sentence would then be deleted, and the last two sentences would remain unchanged.

Paragraph 13

43. Mr. LECHUGA HEVIA asked where the assertion that the North American Free Trade Agreement seemed to have compounded the plight of vulnerable populations had come from?

44. Mr. de GOUTTES (Country Rapporteur) replied that he had drawn upon what had already been stated in the previous concluding observations.

45. Mr. YUTZIS said that although he believed the North American Free Trade Agreement had, in fact, aggravated the plight of vulnerable populations, he was opposed to any such reference in the paragraph; if the Committee criticized the economic model of one country, it must criticize that of others as well. He was in favour of deleting the sentence concerned.

46. Mr. de GOUTTES (Country Rapporteur) said that he had no objection to its deletion.

47. Mr. CHIGOVERA said that he was having great difficulty following the debate, because the text was only available in French.

48. Mr. RECHETOV said that on the previous day the Committee had decided not to consider a text which had been available in English, but for some reason had decided to defer it until the next session. He had voted against that decision. At present, the Committee was considering a large, important country with significant ethnic problems, for which concluding observations were being adopted in haste, without a full understanding of the text. He therefore proposed that the Committee should defer consideration of the draft concluding observations on Mexico until the next session. A text should not be adopted if members were not completely familiar with its content.

49. Mr. SHERIFIS also expressed dissatisfaction with the Committee's working method. The Committee must not pass judgement on important issues hurriedly. Not everyone understood the language in which the draft concluding observations were written. If the Committee adopted them, it would be doing justice neither to the State party nor to itself.

50. Mr. de GOUTTES (Country Rapporteur) said that the day before the Committee had deferred consideration of the concluding observations on the Republic of Iraq, but not because of a language problem. He noted that the Committee was not prepared to adopt a text even though it was available in one of the languages of the United Nations.

51. Mr. GARVALOV said that, in his view, the text was too critical of Mexico.

52. Mr. ABOUL-NASR agreed. He believed that the draft concluding observations must be recast. He, too, was in favour of deferring consideration of Mexico until the next session.

53. Mr. LECHUGA HEVIA said that the situation was similar to that which had obtained with Iraq. The Committee had before it an important, critical report which it had not had time to study. He was in favour of postponement.

54. Mr. CHIGOVERA said that he favoured postponing consideration until the next day, but not until the next session.

55. Mr. de GOUTTES (Country Rapporteur) supported the remarks of the previous speaker.

56. The CHAIRMAN reminded the members of the Committee that, pursuant to rule 42 of the rules of procedure, during the discussion of any matter, a member could move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one member could speak in favour of and one against the motion, after which the motion must immediately be put to the vote.

57. Mr. ABOUL-NASR moved that, pursuant to rule 42, consideration of the draft concluding observations concerning the eleventh periodic report of Mexico be adjourned until the next session.

58. Mr. de GOUTTES (Country Rapporteur) said that insofar as it was impossible to have the text translated into English for the next day, he supported the motion.

59. Mr. CHIGOVERA said that he was against the motion. That new development suggested that the Committee had failed to exercise its responsibilities under article 8. The Committee had the capability to complete the items on its agenda at the current session. He pointed out that the workload for the next session was no lighter than for the current one.

60. The CHAIRMAN put the motion to the vote.

61. The motion was adopted by 8 votes to 3, with 1 abstention.

62. Mr. de GOUTTES (Country Rapporteur) speaking in explanation of vote, said that although he was not opposed to deferring consideration of Mexico, he had voted against the motion, because by taking that decision, the Committee was favouring one language over another; the main reason for the postponement was that the text was in French.

63. Mr. YUTZIS, speaking in explanation of vote, said that he regretted the postponement of the draft concluding observations on Mexico, which together with the similar decision concerning Iraq set a bad precedent. In the specific case of Mexico, he had voted in favour of the motion because appropriate conditions for a discussion in the Committee did not at present exist. That was not a question of favouritism, but merely the reality of the current situation.

The meeting rose at 6 p.m.